

ESTTA Tracking number: **ESTTA746586**

Filing date: **05/16/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Take-Two Interactive Software, Inc.
Granted to Date of previous extension	05/15/2016
Address	622 Broadway NEW YORK, NY 10012 UNITED STATES

Attorney information	Andrea L. Calvaruso Kelley Drye & Warren LLP 101 Park Avenue NEW YORK, NY 10178 UNITED STATES trademarks@kelleydrye.com, ACalvaruso@KelleyDrye.com, Chris.Hamilton@take2games.com Phone:(212) 808-7800
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### Applicant Information

Application No	86673372	Publication date	11/17/2015
Opposition Filing Date	05/16/2016	Opposition Period Ends	05/15/2016
Applicant	Jobing.com, LLC 1375 North Scottsdale Rd., Suite 300 Scottsdale, AZ 85257 UNITED STATES		


### Goods/Services Affected by Opposition

<p>Class 041. First Use: 2012/07/03 First Use In Commerce: 2012/07/03</p> <p>All goods and services in the class are opposed, namely: Educational and training services, namely, providing training in business and job skills and office technology; Providing training in the field of job searching, career development, self marketing, interview skills and research workshops; training services for personnel, namely, providing on-line courses of study in the fields of information technology, software use, job and business skills; career counseling services; education and training, namely, providing classes and seminars in the field of career management and career transition; entertainment and educational services, namely, conducting seminars, workshops, conferences and exhibitions featuring instructional presentations in the fields of personal development, career development, relationship building and social networking; entertainment and educational services, namely, conducting discussion groups in the fields of personal development, career development, relationship building and social networking; on-line journals, namely, blogs featuring information about personal development and career development; online electronic publishing services, namely, publication of text and graphic works of others featuring information regarding topics of professional interest</p>
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### Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2391635	Application Date	11/15/1999
Registration Date	10/03/2000	Foreign Priority Date	NONE
Word Mark	R		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/04/01 First Use In Commerce: 1999/04/01 COMPUTER GAMES SOFTWARE AND VIDEO GAME PROGRAMS		

U.S. Registration No.	3351855	Application Date	05/04/2007
Registration Date	12/11/2007	Foreign Priority Date	NONE
Word Mark	R		


Design Mark	
Description of Mark	The mark consists of a stylized R with a star on the right.
Goods/Services	Class 009. First use: First Use: 1999/10/31 First Use In Commerce: 1999/10/31 Entertainment software, namely, game discs and downloadable game software for use with personal computers, video game consoles, hand held gaming devices

U.S. Registration No.	3631311	Application Date	11/18/2008
Registration Date	06/02/2009	Foreign Priority Date	NONE
Word Mark	R		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2001/08/21 First Use In Commerce: 2001/08/21 Men, women and children's clothing, namely, shirts, t-shirts, sweatshirts, casual and leisure jackets; headgear, namely, hats and caps

U.S. Registration No.	3619405	Application Date	11/18/2008
Registration Date	05/12/2009	Foreign Priority Date	NONE


Word Mark	R
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2006/12/13 First Use In Commerce: 2006/12/13 Downloadable music, ringtones, graphics, and wallpaper via the Internet and mobile devices Class 035. First use: First Use: 2006/12/13 First Use In Commerce: 2006/12/13 On-line retail store services featuring downloadable sound, music, image, video and game files

U.S. Registration No.	3616037	Application Date	12/18/2008
Registration Date	05/05/2009	Foreign Priority Date	NONE

Word Mark	R
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1999/11/09 First Use In Commerce: 1999/11/09 printed matter, namely books, pamphlets, strategy guides and manuals in the field of video games; posters; stickers

U.S. Registration No.	3695041	Application Date	11/18/2008
Registration Date	10/13/2009	Foreign Priority Date	NONE
Word Mark	R		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 041. First use: First Use: 1999/10/30 First Use In Commerce: 1999/10/30 Arranging and conducting special eventsand parties
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U.S. Registration No.	3843554	Application Date	11/14/2008
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Registration Date	09/07/2010	Foreign Priority Date	NONE
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Word Mark	R
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Design Mark	
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Description of Mark	The mark consists of a stylized "R" with a star on the right.
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Goods/Services	Class 041. First use: First Use: 1999/04/30 First Use In Commerce: 1999/04/30 entertainment services, namely, providing online games, providing a website featuring computer games and video games, and news, information, tips, hints, contests, computer interface themes, enhancements, audio-visual content, music, films, videos, television programs, animated series, and other multimedia materials in the field of computer games and video games; providing information, news and commentary in the field of computer gamesand video games
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U.S. Registration No.	3950918	Application Date	09/02/2010
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Registration Date	04/26/2011	Foreign Priority Date	NONE
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Word Mark	R
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Design Mark	
Description of Mark	
Goods/Services	
	Class 009. First use: First Use: 2000/11/28 First Use In Commerce: 2000/11/28 sound recordings featuring music and digital music downloadable from the Internet and wireless devices

U.S. Registration No.	3992563	Application Date	09/02/2010
Registration Date	07/12/2011	Foreign Priority Date	NONE
Word Mark	R		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 041. First use: First Use: 1999/11/17 First Use In Commerce: 1999/11/17 Entertainment services, namely, providing on-line prerecorded nondownloadable, music, films, and movies via a global computer network
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U.S. Registration No.	4034074	Application Date	12/22/2010
Registration Date	10/04/2011	Foreign Priority Date	NONE

Word Mark	R
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use: First Use: 2010/10/19 First Use In Commerce: 2010/10/19 Animated motion picture films featuringentertainment, namely, action, adventure, dramatic, comedic, children's and documentary themes; computer and video gameprograms and software, and related programs and software, namely, screensavers,digital music files, videos, films and other multimedia materials, all featuring entertainment, namely, action, adventure, dramatic, comedic, children's and documentary themes, all delivered via pre-recorded discs and other pre-recorded media and via downloadable delivery on global computer networks and wireless networks; pre-recorded discs and other pre-recorded digital and electronic media in the field of live action programs, motionpictures, or animation featuring entertainment, namely, action, adventure, dramatic, comedic, children's and documentary themes</p> <p>Class 041. First use: First Use: 1999/04/30 First Use In Commerce: 1999/04/30 Entertainment services, namely, providing online computer and video games, providing a website featuring use of non-downloadable computer and video games, and news, information, tips, hints, contests, computer interface themes and enhancements, audio-visual content, music, films, videos, television programs, animated series, and other multimedia materials, all non-downloadable and all in the field of computer games and video games; providing information, news and commentary in the field of computer games and videogames</p>
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U.S. Registration No.	4216755	Application Date	11/17/2011
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Registration Date	10/02/2012	Foreign Priority Date	NONE
Word Mark	R		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2003/10/31 First Use In Commerce: 2003/10/31 Games, toys, and playthings, namely, dolls, toy action figures and accessories therefor		

Attachments	75835094#TMSN.png( bytes ) 77173249#TMSN.png( bytes ) 77616894#TMSN.png( bytes ) 77616897#TMSN.png( bytes ) 77636344#TMSN.png( bytes ) 77616981#TMSN.png( bytes ) 77614900#TMSN.png( bytes ) 85122037#TMSN.png( bytes ) 85122117#TMSN.png( bytes ) 85204405#TMSN.png( bytes ) 85475008#TMSN.png( bytes ) Notice of Opposition.pdf(51116 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ilaria Maggioni/
Name	Ilaria Maggioni
Date	05/16/2016



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**IN THE MATTER OF TRADEMARK APPLICATION  
SERIAL NO. 86/673,372 PUBLISHED IN THE  
OFFICIAL GAZETTE ON November 17, 2015  
MARK: R & Design**

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TAKE-TWO INTERACTIVE	:	
SOFTWARE, INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	OPPOSITION NO.
	:	
JOBING.COM, LLC,	:	
	:	
	:	
Applicant.	:	
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**NOTICE OF OPPOSITION**

TAKE-TWO INTERACTIVE SOFTWARE, INC. (“Take-Two” or “Opposer”), a corporation organized under the laws of Delaware with a principal place of business at 622 Broadway, New York, New York 10012, believes it will be damaged by registration of the mark



R & Design (“Applicant’s Mark”) in class 41 as shown in Application Serial No. 86/673,372, and having been granted a first extension of time to oppose up to and including March 16, 2016, and a further extension of time to oppose, with Applicant’s consent, up to and including May 15, 2016, hereby opposes the same.

As grounds of opposition, Take-Two alleges as follows:

1. Opposer is a leading developer, marketer and publisher of interactive entertainment software and accessories, including video and computer games and online interactive video games, interactive video and online entertainment services and a wide array of related goods and services (collectively, “Opposer’s Goods and Services”). Opposer’s Goods and Services are marketed and sold to consumers throughout the world.

2. As set forth in detail below, Opposer, through its affiliated companies, offers such goods and services under trade names, trademarks and service marks prominently featuring the letter “R” combined with a star design, used alone or with other words or designs (collectively, “Opposer’s R Design Marks”). One extremely well-known version of Opposer’s R Design Marks is the following:



3. Beginning in 1999, Opposer, through its affiliated companies, has used Opposer’s R Design Marks to designate its world famous entertainment software, computer and video games and a wide range of related goods and services. These goods marketed in connection with Opposer’s R Design Marks include some of the best-selling video games in the world, including the GRAND THEFT AUTO, RED DEAD, MIDNIGHT CLUB, and MAX PAYNE series of video games. In particular, the GRAND THEFT AUTO series of games alone have collectively

sold well over 210 million copies. Grand Theft Auto V grossed over \$1 billion in retail sales in only three days after its September 2013 release.

4. Since adopting Opposer's R Design Marks, Opposer has expanded use of such marks to a broad variety of products and services, including without limitation, posters, toys; magazines; manuals; guides; periodicals; books; animated motion picture films; pre-recorded video discs; prerecorded digital music files and sound recordings; retail services featuring music; online streaming of music; music publishing services; providing downloadable music, ringtones, graphics, and wallpaper for mobile phones; downloadable image, video and game files; special events and parties; websites featuring news, information, tips, hints, contests, computer interface themes and enhancements, audio-visual content, music, films, videos, television programs, animated series, and other multimedia materials.

5. Opposer also operates an online store through which Opposer sells and distributes limited issue promotional products bearing Opposer's R Design Marks.

6. Opposer has continuously and prominently used Opposer's R Design Marks since their adoption. Opposer has extensively advertised and promoted Opposer's R Design Marks in connection with the many goods and services described above, and has achieved significant sales, exposure and recognition of the above described goods and services bearing Opposer's R Design Marks.

7. By virtue of Opposer's longstanding use, advertisement and promotion of Opposer's R Design Marks and the goods and services they designate, these marks have developed enormous goodwill in the trade and among consumers and have become famous and associated in the mind of the public with Opposer's well-known products and services.

8. Opposer owns numerous federal trademark registrations and applications for Opposer's R Design Marks, including without limitation:
- A. Registration No. 2,391,635 for the R Design Mark for "computer game software and video game programs," which issued October 3, 2000, and has achieved incontestable status;
  - B. Registration No. 3,351,855 for the R Design Mark for "entertainment software, namely, game discs and downloadable game software for use with personal computers, video game consoles, hand held gaming devices," which issued December 11, 2007, and has achieved incontestable status;
  - C. Registration No. 3,631,311 for the R Design Mark for "men, women and children's clothing, namely, shirts, t-shirts, sweatshirts, casual and leisure jackets; headgear, namely, hats and caps," which issued June 2, 2009, and has achieved incontestable status;
  - D. Registration No. 3,619,405 for the R Design Mark for "downloadable music, ringtones, graphics, and wallpaper via the Internet and mobile devices" and "on-line retail store services featuring downloadable sound, music, image, video and game files," which issued May 12, 2009, and has achieved incontestable status;
  - E. Registration No. 3,616,037 for the R Design Mark for "printed matter, namely books, pamphlets, strategy guides and manuals in the field of video games; posters; stickers," which issued May 5, 2009, and has achieved incontestable status;
  - F. Registration No. 3,695,041 for the R Design Mark for "arranging and conducting special events and parties," which issued October 13, 2009, and has achieved incontestable status;
  - G. Registration No. 3,843,554 for the R Design Mark for "entertainment services, namely, providing online games, providing a website featuring computer games and video games, and news, information, tips, hints, contests, computer interface themes, enhancements, audio-visual content, music, films, videos, television programs, animated series, and other multimedia materials in the field of computer games and video games; providing information, news and commentary in the field of computer games and video games" which issued September 7, 2010;

- H. Registration No. 3,950,918 for the R Design Mark for “sound recordings featuring music and digital music downloadable for the internet and wireless devices,” which issued April 26, 2011;
- I. Registration No. 3,992,563 for the R Design Mark for “entertainment services, namely, providing on-line prerecorded nondownloadable, music, films, and movies via a global computer network,” which issued July 12, 2011;
- J. Registration No. 4,034,074 for the R Design Mark for “animated motion picture films featuring entertainment, namely, action, adventure, dramatic, comedic, children's and documentary themes; computer and video game programs and software, and related programs and software, namely, screensavers, digital music files, videos, films and other multimedia materials, all featuring entertainment, namely, action, adventure, dramatic, comedic, children's and documentary themes, all delivered via pre-recorded discs and other pre-recorded media and via downloadable delivery on global computer networks and wireless networks; pre-recorded discs and other pre-recorded digital and electronic media in the field of live action programs, motion pictures, or animation featuring entertainment, namely, action, adventure, dramatic, comedic, children's and documentary themes” and “entertainment services, namely, providing online computer and video games, providing a website featuring use of non-downloadable computer and video games, and news, information, tips, hints, contests, computer interface themes and enhancements, audio-visual content, music, films, videos, television programs, animated series, and other multimedia materials, all non-downloadable and all in the field of computer games and video games; providing information, news and commentary in the field of computer games and video games,” which issued on October 4, 2011;
- K. Registration No. 4,216,755 for the R Design Mark for “games, toys, and playthings, namely, dolls, toy action figures and accessories therefor,” which issued on October 2, 2012.

9. The above registrations are valid and subsisting, and are in full force and effect and are owned by Opposer.

10. On June 24, 2015, Applicant Jobing.com, LLC (“Applicant”) filed Application Serial No. 86/673,372 (the “Application”), to register the following mark:



for “Educational and training services, namely, providing training in business and job skills and office technology; Providing training in the field of job searching, career development, self marketing, interview skills and research workshops; training services for personnel, namely, providing on-line courses of study in the fields of information technology, software use, job and business skills; career counseling services; education and training, namely, providing classes and seminars in the field of career management and career transition; entertainment and educational services, namely, conducting seminars, workshops, conferences and exhibitions featuring instructional presentations in the fields of personal development, career development, relationship building and social networking; entertainment and educational services, namely, conducting discussion groups in the fields of personal development, career development, relationship building and social networking; on-line journals, namely, blogs featuring information about personal development and career development; online electronic publishing services, namely, publication of text and graphic works of others featuring information regarding topics of professional interest,” in International Class 41 (“Applicant’s Services”), claiming a first use date of July 3, 2012, and a first use in commerce date of July 3, 2012.

11. Upon information and belief, Applicant did not use Applicant’s Mark in the United States in connection with Applicant’s Services covered by the Application prior to its claimed first use date of July 3, 2012.



12. By virtue of Opposer's prior use and promotion of and registrations for Opposer's R Design Marks, Opposer has rights in Opposer's R Design Marks prior and superior to any alleged rights of Applicant in Applicant's Mark covered by the Application.

13. The services covered by the Application in class 41 are closely related to goods bearing and services offered in connection with Opposer's R Design Marks.

14. Applicant's Mark is confusingly similar to Opposer's R Design Marks. Both parties' marks feature a large representation of the letter "R" in a substantially identical bolded font and both are surrounded by a geometrically-shaped border with rounded corners.

15. Applicant's Mark so resembles Opposer's R Design Marks as to be likely, when applied to Applicant's Services in class 41, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would therefore be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

16. Opposer's R Design Marks are distinctive and famous and enjoyed such fame well prior to July 3, 2012, Applicant's alleged first use date. Opposer would be further injured by the granting of a certificate of registration for Applicant's Mark because such mark is likely to dilute the distinctive quality of Opposer's R Design Marks and impair the distinctiveness of Opposer's R Design Marks.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and respectfully requests that its opposition be sustained and that the registration of Applicant's Mark be refused.

Dated: New York, New York  
May 16, 2016

KELLEY DRYE & WARREN LLP  
Attorneys for Opposer

/Ilaria Maggioni/

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Andrea L. Calvaruso  
Ilaria Maggioni  
101 Park Avenue  
New York, NY 10178  
(212) 808-7800

**CERTIFICATE OF SERVICE**

I, Ilaria Maggioni, am an attorney at Kelley Drye & Warren LLP, attorneys for Opposer Take-Two Interactive Software, Inc., and hereby affirm under the penalties of perjury, that on May 16, 2016, I caused a true and correct copy of the foregoing Notice of Opposition to be served via first class mail, postage prepaid, upon the Applicant's attorney of record indicated for this purpose on the records of the Trademark Trial and Appeal Board shown below:

Susan L. Heller, Esq.  
Greenberg Traurig LLP  
1840 Century Park E Ste 1900  
Los Angeles, CA 90067-2121

And upon the Applicant's attorney of record shown in the TESS and TSDR records of the USPTO for Application Serial No. 86/673,372 as recently appointed to replace the above mentioned attorney, at the address indicated thereof for this purpose as follows:

Paul A. McLean, Esq.  
Greenberg Traurig, LLP  
1900 University Avenue, Fifth Floor  
East Palo Alto, CA 94303

/Ilaria Maggioni/